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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,996	07/08/2003	Yennun Huang	33081/US/2	6243
38598	7590	05/30/2008		
ANDREWS KURTH LLP 1350 I STREET, N.W. SUITE 1100 WASHINGTON, DC 20005			EXAMINER OSMAN, RAMY M	
			ART UNIT 2157	PAPER NUMBER
			MAIL DATE 05/30/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/613,996

Applicant(s)

HUANG ET AL.

Examiner

RAMY M. OSMAN

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-8,10,11,13,14,16,18-21 and 23-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-8,10,11,13,14,16,18-21 and 23-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This action is responsive to amendment filed on February 8, 2008, where applicant amended claims 1,5,7,8,10,11,14,18,21,23,24 and cancelled claims 2,4,9,12,15,17,25. Claims 1,3,5-8-11,13,14,16,18-21,23-27 are pending.

Response to Arguments

2. Applicant's arguments filed 2/8/08 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Liao (US Patent No 7,188,168).

Claim Objections

3. Claim 1 objected to because of the following informalities: on line 5, change "comprising;" to "comprising:". (i.e. change the semi-colon to a colon).
4. Claim 5 objected to because of the following informalities: Claim 5 depends on claim 4 which is a cancelled claim.
5. Appropriate correction is required.

Claim Rejections - 35 USC § 101

6. Claims 14 and 21 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicants specification suggests that these "apparatus" claims can be implemented in a purely software implementation. Programs per se are not statutory

because they are simply abstract ideas and are not directed to a process occurring as a result of executing the program on an actual physical machine. For example, the limitations of dependent claims 20 and 27 may be incorporated into the claims since claims 20 and 27 refer to a hardware implementation..

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1,3,5-7,14,16,18-20 rejected under 35 U.S.C. 102(e) as being anticipated by Liao (US Patent No 7,188,168).

9. In reference to claims 1 and 14, Liao teaches a method and apparatus respectively for routing packets in a network in conjunction with a quality of service guarantee, comprising:

receiving a packet having a header section and a payload section (column 14 lines 34-36);

inspecting the payload section of the packet in a network core as a prelude to routing the packet, the step of inspecting, comprising; extracting data attributes from the payload section; (column 14 lines 34-39)

comparing the extracted data attributes to two or more attributes filters, and if the comparing step indicated that each of the two or more attributes filters is satisfied, performing a set of functions; (column 19 lines 5-25)

determining a quality of service guarantee for the packet; and selectively routing the packet based upon the inspecting and the quality of service guarantee (column 2 lines 33-38 and column 14 lines 40-43).

10. In reference to claims 3 and 16, Liao teaches the method and apparatus of claims 1 and 14, further including performing the inspecting step at a router in the network core (column 16 lines 1-2).

11. In reference to claims 5 and 18, Liao teaches the method and apparatus of claims 4 and 17, further including propagating the filter to a router in the network for use in performing the inspecting (column 19 lines 40-47).

12. In reference to claims 6 and 19, Liao teaches the method and apparatus of claims 1 and 14, further including programming a router in the network for performing the receiving, inspecting, and routing steps (column 19 lines 40-47).

13. In reference to claims 7 and 20, Liao teaches the method and apparatus of claims 1 and 14, wherein the set of functions uncludes determining how to route the packet or whether to drop the packet altogether (column 14 lines 40-43).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 8,10,11,13,21,23,24,26,27 rejected under 35 U.S.C. 103(a) as being unpatentable over Liao (US Patent No 7,188,168) in view of Banavar et al (US Patent No 7,050,432).

16. In reference to claims 8,10,11,13,21,23,24,26,27, these are claims that correspond to the above claims 1,3,5-7,14,16,18-20. Claims 8,10,11,13,21,23,24,26,27 are substantially similar to the above claims and are rejected based upon the same rationale as given for claims 1,3,5-7,14,16,18-20 above.

However, Liao fails to explicitly teach subscription based services. Banavar teaches publish/subscribe based services that utilizes content based routing for the purpose of facilitating reliable message delivery (column 1 lines 27-34 and column 4 line 57 – column 5 line 12). It would have been obvious for one of ordinary skill in the art to modify Liao as per the teachings of Banavar for the purpose of facilitating reliable message delivery.

Conclusion

17. The above rejections are based upon the broadest reasonable interpretation of the claims. Applicant is advised that the specified citations of the relied upon prior art, in the above rejections, are only representative of the teachings of the prior art, and that any other supportive sections within the entirety of the reference (including any figures, incorporation by references, claims and/or priority documents) is implied as being applied to teach the scope of the claims.

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached Form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMY M. OSMAN whose telephone number is (571)272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ramy M Osman/
Primary Examiner, Art Unit 2157
May 27, 2008